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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,645

08/25/2006

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F7764(V)

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201 7590 08/25/2010
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EXAMINER

TRAN LIEN, THUY

ART UNIT

PAPER NUMBER

1781

NOTIFICATION DATE

DELIVERY MODE

08/25/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Office Action Summary	Application No. 10/590,645	Applicant(s) VELDHUIZEN ET AL.	
	Examiner Lien T. Tran	Art Unit 1781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The 112 second paragraph rejection and the objection of claim 5 is hereby withdrawn due to the amendment filed on 6/11/10.

Claims 2-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yuan et al (6190,720).

Yuan et al disclose a composition comprising sterol or stanol esterified with fatty acids and emulsifiers. The sterol or stanol derivatives can be esters of sunflower oil, cotton seed oil, palm oil etc... The emulsifier can be one emulsifier or mixture of emulsifiers selected from the group of lecithin, monglyceride, polysorbate, sodium stearyl lactylate, DATEM, glyceryl monostearate. The amount of emulsifier is present in the composition in amount of about 1% to about 5%. The amount of sterol or stanol ester is from about 30-90%. The amount of the composition is used in food products ranges from about 5-20%. The foods include baked products such as bread, cakes, brownies etc... (see col. 1 line 63 through col. 2 line 25, col. 3 lines 43-62, col. 4, col. 6 lines 22-42)

The amount of emulsifier can be about 1% and the amount of sterol ester can be up to about 90%; thus the ratio of emulsifier to sterol can be from 1:30 to 1:90 when 1% emulsifier is used. The ratio can range from 1:6 to 1:18 when the upper range of emulsifier is used. Both of these ranges include ratios falling with the claimed range. In the food products, the amount of emulsifier can be 1% when 5% of emulsifier is used in the composition and the composition is used in amount of 20%. The amount of sterol can vary and includes amount recited in claim 10. For example, if 40% sterol ester is

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used in the composition and 20% of the composition is used in the food, the amount of sterol ester is 8%.

In the response filed 6/11/10, applicant argues the action does not point to the amounts of the recited components used in baked products and Yuan et al indicate that the amount of food ingredient incorporated into a food composition will depend on the formulation of the food product. This argument is not persuasive. Yuan et al disclose the amount of food ingredient will depend upon the formulation but they also disclose the typical ranges will be from about 5-20% and the food products includes baked products such as breads, cakes, pies, brownies, cookies etc. Thus, Yuan et al explicitly teach adding the food ingredient in the range of about 5-20%.

Applicant's arguments filed 6/11/10 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 19, 2010

/Lien T Tran/

Primary Examiner, Art Unit 1781